



***Substitute House Bill No. 5249***

***Public Act No. 10-29***

***AN ACT CONCERNING THE CONFIDENTIALITY OF CERTAIN DOCUMENTS AND RECORDS IN PSYCHIATRIC SECURITY REVIEW BOARD PROCEEDINGS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 17a-596 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) Prior to any hearing by the board concerning the discharge, conditional release, temporary leave or confinement of the acquittee, the board, acquittee and state's attorney may each choose a psychiatrist or psychologist to examine the acquittee. The results of the examination shall be in writing and filed with the board, and shall include, but need not be limited to, an opinion as to whether the acquittee is a person with psychiatric disabilities or mentally retarded to the extent that [his] the acquittee's release would constitute a danger to himself or others and whether the acquittee could be adequately controlled with treatment as a condition of release. To facilitate examination of the acquittee, the board may order [him] the acquittee placed in the temporary custody of any hospital for psychiatric disabilities or other suitable facility or placed with the Commissioner of Developmental Services.

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(b) The board shall consider all evidence available to it that is material, relevant and reliable regarding the issues before the board. Such evidence may include, but [is] need not be limited to, the record of trial, the information supplied by the state's attorney or by any other interested party, including the acquittee, and information concerning the acquittee's mental condition and the entire psychiatric and criminal history of the acquittee.

(c) Testimony shall be taken upon oath or affirmation of the witness from whom the testimony is received.

(d) Any hearing by the board, including the taking of any testimony at such hearing, shall be open to the public. At any hearing before the board, the acquittee shall have all the rights given a party to a contested case under chapter 54. In addition to the rights enumerated [thereunder] in chapter 54, the acquittee shall have the right to appear at all proceedings before the board, except board deliberations, and to be represented by counsel, to consult with counsel prior to the hearing and, if indigent, to have counsel provided, pursuant to the provisions of chapter 887, without cost. At any hearing before the board, copies of documents and reports considered by the board shall be available for examination by the acquittee, counsel for the acquittee and the state's attorney. [The confidentiality of these reports shall be determined pursuant to sections 52-146c to 52-146j, inclusive.] Psychiatric or psychological reports concerning the acquittee that are in the possession of the board shall not be public records, as defined in section 1-200, except that information in such reports relied on by the board or used as evidence concerning the discharge, conditional release, temporary leave or confinement of the acquittee shall not be confidential. The provisions of sections 52-146c to 52-146j, inclusive, shall not apply to such reports for the purposes of this section.

(e) Upon request of any party before the board, or on its own motion, the board may continue a hearing for a reasonable time not to

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exceed sixty days to obtain additional information or testimony or for other good cause shown.

(f) At any hearing before the board, the acquittee, or any applicant seeking an order less restrictive than the existing order, shall have the burden of proving by a preponderance of the evidence the existence of conditions warranting a less restrictive order.

(g) A record shall be kept of all hearings before the board, except board deliberations.

(h) Within twenty-five days of the conclusion of the hearing, the board shall provide the acquittee, [his] the acquittee's counsel, the state's attorney and any victim as defined in section 17a-601 with written notice of the board's decision. If there is no victim or the victim is unidentified or cannot be located, the board shall be relieved of the requirement of providing notice to the victim.

Sec. 2. Section 17a-590 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

As one of the conditions of release, the board may require the acquittee to report to any public or private mental health facility for examination. Whenever medical, psychiatric or psychological treatment is recommended, the board may order the acquittee, as a condition of release, to cooperate with and accept treatment from the facility. The facility to which the acquittee has been referred for examination shall perform the examination and submit a written report of its findings to the board. If the facility finds that treatment of the person is appropriate, it shall include its recommendations for treatment in the report to the board. Whenever treatment is provided by the facility, [it] the facility shall furnish reports to the board on a regular basis concerning the status of the acquittee and the degree to which [he] the acquittee is a danger to himself or others. The board

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shall furnish copies of all such reports to the acquittee, counsel for the acquittee and the state's attorney. [The confidentiality of these reports shall be determined pursuant to sections 52-146c to 52-146j, inclusive.] Psychiatric or psychological reports concerning the acquittee that are in the possession of the board shall not be public records, as defined in section 1-200, except that information in such reports relied on by the board or used as evidence concerning the discharge, conditional release, temporary leave or confinement of the acquittee shall not be confidential. The provisions of sections 52-146c to 52-146j, inclusive, shall not apply to such reports for the purposes of this section. The facility shall comply with any other conditions of release prescribed by order of the board.